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DISPOSITION OF SEIZED CASH MANAGEMENT IN THE CUSTOMS SERVICE AND THE JUSTICE DEPARTMENT

A REPORT

BASED ON HEARINGS, INVESTIGATIONS, AND INQUIRIES

BY THE

SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET, AND ACCOUNTING

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS

JUNE 1987

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LETTER OF TRANSMITTAL

U.S. SENATE,
SUBCOMMITTEE ON FEDERAL SPENDING,
BUDGET, AND ACCOUNTING,
COMMITTEE ON GOVERNMENTAL AFFAIRS.

Hon. JOHN GLENN,
Chairman, Committee on Governmental Affairs,
U.S. Senate.

DEAR MR. CHAIRMAN: As part of its on-going investigation into the disposition of seized property resulting from criminal activities, the Subcommittee on Federal Spending, Budget, and Accounting conducted inquiries into the accounting and management of seized cash.

The Subcommittee's hearing addressed a review conducted by the General Accounting Office which focused on the cash seizure programs of the Customs Service and the Drug Enforcement Administration. The Subcommittee heard allegations that both agencies provide improper management of seized cash and lack clear and effective policy in this area. The report also contains testimony by the Customs Service, the Drug Enforcement Administration, and the Department of Justice.

In anticipation of further Congressional action on this matter, I am hereby transmitting for publication as a committee print, the report by the Subcommittee.

Sincerely,

LAWTON CHILES.

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INTRODUCTION

The Comprehensive Crime Control Act of 1984 expanded the Government's seizure authority. The act established asset forfeiture funds to finance the management and disposal of seized and forfeited assets. As a result, there has been an increase in the volume of seizures. Millions of dollars sit idle in vaults and safe deposit boxes.

In 1985, Senator Lawton Chiles asked the General Accounting Office to launch an investigation into the storage and disposal of confiscated vessels on the Miami River. One hundred and forty-five of the United States Customs seized vessels cluttered the Miami River. Some of the vessels had been stored on the river since 1977. Thirty of these vessels were deteriorated, submerged and partially submerged. The American taxpayer was paying for the storage fee of the seized vessels in the Miami River in excess of $750,000 per year.

The Crime Control Act, along with the Trade Tariff Act of 1984, made various changes regarding the forfeiture and disposition of property seized by Customs. These changes brought about a significant reduction in the amount of time needed to gain forfeiture of a vessel. The Customs vessels that had been cluttering the Miami River were a result of the lag-time between forfeiture and disposition. Customs blamed this lag on administrative problems. In testimony before the Subcommittee, the United States Customs Service stated the following:

CURRENT DEFICIENCIES TO BE CORRECTED

Mr. KWAS. Senator, as you know, narcotics interdiction is one of our major priorities, and along with being successful in narcotics interdiction, there were some administrative problems.

While we have been remiss in the timely disposition of some of the vessels forfeited to the Government, our procedural defects have been completely identified.

In testimony on the issue, James Burrow of the General Accounting Office (GAO) stated:

Senator Chiles, when we first got here, we asked for a list of those boats that Customs had on the Miami River so that we could go out and take a look at them.

Initially, there was no list, but customs made a list from the files that they had.

After we got the list, it was a list of 137 boats that they provided us with, we took a ride on the river and tried to identify some of the boats that were on the list.

As we could see, during our ride on the river today, there are some that belong to Customs and some that do not. It is a bit confusing as to which ones belong to Customs and which ones do not.

When we got back to the Customs office, we asked for a more detailed list, as we asked for an explanation for some of those boats we saw that were in disrepair. Customs pulled those files.

The one that interested me the most was the Monica. The Monica has been around since 1982. We asked, "why is it still here?"

The information that we were provided with was that it had evidently fallen through the cracks, and that it could have been disposed of several years ago.

Later Senator Chiles asked if the forfeiture process was given high priority at Customs Service. James Burrow, GAO, stated:

Sir, I think that the priority that they gave it before we got down here was probably not the highest priority that they should have given it.

I can assure you that in the last two weeks they have taken some steps to clear up the situation, and I think they will be explaining those to you.

Senator CHILES. As you know, Customs has signed a $44 million 4-year contract with Northrop to store and maintain seized properties.

Will that contract help to streamline the forfeiture process and help remove the rusting hulks from the river?

Mr. BURROW. Sir, I am not that familiar with the particulars on that contract. I am aware that there is a contract, and I would say that in order for that contract to wrok, Customs is going to have its records straight in order for the contractor to take over the system of maintaining and disposing of boats.

The GAO audit of Customs brought about several changes designed to correct these administrative difficulties. The Customs Service estimated that four months would lapse before forfeiture of a vessel and its availability for disposition.

THE SCOPE OF THE PROBLEM

Two years later, the Miami River was virtually cleared of unwanted vessels. In a subsequent letter, Senator Chiles requested that the GAO extend its investigation into seized cash, personal property and business establishments. The review was conducted between July and September of 1986. With an estimated $223 million of seized cash on-hand, the Customs Service and the Drug Enforcement Administration have, by far, most of the cash seized by the Departments of Treasury and Justice. On March 13, 1987, the Subcommittee on Federal Spending, Budget, and Accounting conducted a hearing on the accounting and management of seized cash.

EVENTS LEADING TO THE MARCH 13, 1987 HEARING ON SEIZED CASH

April 10, 1981—the GAO issued a report entitled "Asset For-Feiture: A Seldom Used Tool In Combatting Drug Trafficking." In its report, the GAO pointed out several problem areas:

COMPTROLLER GENERAL'S REPORT TO THE HONORABLE JOSEPH R. BIDEN, UNITED STATES SENATE

Asset Forfeiture—A Seldom Used Tool in Combatting Drug Trafficking

DIGEST

The Federal Government's record in taking the profit out of crime is not good. Billions of dollars are generated annually by organized crime; drug trafficking alone is estimated at $60 billion annually. These illicit profits and the assets acquired with them were the target of legislation passed nearly 10 years ago to combat organized crime through forfeiture of assets. However, assets obtained through forfeiture have been minuscule.

The Government has simply not exercised the kind of leadership and management necessary to make asset forfeiture a widely used law enforcement technique. The Department of Justice has not given investigators or prosecutors the incentive or guidance to go after criminal assets. Steps are now underway to do more, but emerging case law indicates legislative changes are also needed if investigators and prosecutors are to make meaningful attacks on the economic base of organized crime.

Whether or not an improved asset forfeiture program will make a sizeable dent in drug trafficking is uncertain. The almost insatiable demand for drugs and the huge

dollar amounts involved may be obstacles too great for law enforcement alone to overcome. But a successful forfeiture program could provide an additional dimension in the war on drugs by attacking the primary motive for such crimes—monetary gain.

FEW ASSETS HAVE BEEN FORFEITED

Simply put, neither the dollar value nor the type of assets forfeited to the Government by criminal organizations has been impressive compared to the billions generated annually through drug trafficking.

—Since enactment in 1970 through March 1980, the Racketeer Influenced and Corrupt Organization and Continuing Criminal Enterprise statutes (acts authorizing criminal forfeiture) have been used in 98 narcotics cases. Assets forfeited and potential forfeitures in those cases amounted to only $2 million. (See pp. 10 and 11.)

—Since enactment in November 1978 of the Psychotropic Substance Act amendments (providing for civil forfeiture) through March 1980, the Drug Enforcement Administration has seized $7.1 million in currency involved in drug transactions. Of that amount only $234,000 had been forfeited; cases involving $6.8 million of the $7.1 million were pending. Seizures or forfeitures of other types of assets have been minimal. (See p. 12.)

—Most forfeitures have been accomplished under various civil authorizations by the Drug Enforcement Administration and the U.S. Customs Service. However, these forfeitures have been primarily the vehicles and cash used in drug trafficking and represent mere incidental operating expenses for large narcotics organizations. Total civil forfeitures from 1976 through 1979 were $29.9 million. (See pp. 12 and 13.)

—Equally disturbing are the kinds of assets forfeited. The Racketeer Influenced and Corrupt Organization and Continuing Criminal Enterprise statutes were intended to destroy the economic base of criminal organizations and to combat organized crime's infiltration into commercial enterprise. The Department of Justice has estimated that 700 legitimate businesses in this country have been infiltrated by organized crime, yet no significant business interests acquired with illicit drug funds or profits from other criminal activity have been forfeited.

WHY MORE FORFEITURES HAVE NOT BEEN REALIZED

The reasons why the forfeiture statutes have not been used more extend across the legal, investigative, and prosecutive areas.

—Emerging case law indicates the forfeiture statutes are ambiguous in some areas or incomplete and deficient in others.

—Investigators and prosecutors were not given the guidance and incentive for pursuing forfeiture.

—Access to financial information may be limited.

But the primary reason has been the lack of leadership by the Department of Justice. Nearly 10 years after the forfeiture statutes were enacted the Government lacked the most rudimentary information needed to manage the forfeiture effort. No one knew how many narcotics cases had been attempted using the Racketeer Influenced and Corrupt Organization or Continuing Criminal Enterprise statutes, the disposition of all the cases, how many cases involved forfeiture attempts, and why those attempts either failed or succeeded.

Efforts are being made to remedy the matter. The Department of Justice has (1) issued guidance on the use of forfeiture statutes, (2) is analyzing in detail all narcotics Racketeer Influenced and Corrupt Organization and Continuing Criminal Enterprise cases prosecuted since 1970, and (3) is preparing a manual on how to conduct financial investigations in drug cases. Also, the Drug Enforcement Administration has made forfeiture a goal of all major trafficker investigations. These initial efforts must be continued and implementation monitored if the Government is going to improve its forfeiture law enforcement effort.

In 1981, the GAO review noted these pertinent facts:

Neither the dollar value nor the type of assests forfeited to the Government from criminal organizations has been impressive.

Even though enacted more than 10 years ago, the RICO and CCE statues have been applied in only 98 drug cases. Assets

forfeited and potential forfeitures in those cases amounted to only $2 million.

The 1978 Psychotropic Substance Act amendment to DEA's civil forfeiture authorization has been used predominantly to forfeit cash directly involved in drug transactions, not to forfeit major assets derived from drug profits. Although $7.1 million in cash has been seized under this provision, only $234,000 has actually been forfeited as of March 1980; cases involving $6.8 million of the $7.1 were pending.

Most forfeitures have been accomplished under various civil authorizations by DEA and the U.S. Customs Service. However, these have primarily been the vehicles and cash used in drug trafficking and represent mere incidental operating expenses for large narcotics organizations. Total civil forfeitures from 1976 through 1979 were $29.9 million.

Compared to the astounding profits of narcotics organizations, the amount extracted through criminal and civil forfeitures is indeed small.

In a detailed survey of the U.S. Customs Service and the Drug Enforcement Administration, during the years 1976 to 1979, these two agencies seized more than $194 million worth of property consisting mostly of vehicles and cash. However, only $29.9 million of this property was ultimately forfeited to the U.S. Government.

Most seized property is not forfeited because:

—the seized property is returned to the owner because he was an innocent third party (i.e. the vehicle was stolen or leased),

—the seized property is turned over to a bank which holds a lien against it, or

—the property is seized for a minor violation and is returned to the owner upon payment of a small fine.

One of the key criticisms made by the GAO in the 1981 report concerned the failure of the Drug Enforcement Administration to hire financial experts. Specifically, the GAO noted,

Most DEA agents do not have sufficient financial expertise to conduct the sophisticated financial investigations required to obtain forfeiture of derivative proceeds. Although about 200 of the 2,000 DEA agents have backgrounds in accounting or business management, DEA does not have any positions classified as financial investigator or agent/accountant. All agents, including those with financial backgrounds, are assigned to general investigative duties rather than to specialized functions. DEA officials say their limited resources do not permit such specialization. Instead of specialization, DEA relies on a short in-house training program to provide a general overview of financial investigative techniques and the cooperation of other agencies to provide specialized financial expertise.

DEA responded to this critical shortcoming by utilizing agents from other agencies. The GAO responded to that effort in this manner on page 20 of the report.

The use of other agencies' financial experts, particularly those from IRS, may provide needed expertise on a short-term basis but seems an unlikely long-term solution to the expertise problem. For example, an IRS/DEA memorandum of understanding provides that although the two agencies agree to

share certain data on drug cases, IRS will concentrate on the tax aspects of high-level traffickers. Only on a temporary basis will IRS detail personnel to DEA for analyzing financial information other than tax-related information.

DECEMBER 10, 1987

In response to the Chairman's request the GAO conducted a review of the DEA's field office in Dallas, Texas. The result of that investigation is as follows:

RESULTS OF GAO'S REVIEW OF DEA

U.S. GENERAL ACCOUNTING OFFICE,
GENERAL GOVERNMENT DIVISION,
Washington, DC, December 10, 1986.

HON. LAWTON CHILES,
U.S. Senate.

DEAR SENATOR CHILES: Our review of the Justice and Treasury Departments' management of assets seized by and forfeited to the federal government, undertaken in response to your November 22, 1985, request, identified weaknesses in the Drug Enforcement Administration's (DEA) internal controls for converting forfeited personal property [1] to official government use. Although our review is not yet complete, we brought these weaknesses to DEA's attention through meetings in July, August, and September 1986 so that timely corrective action could be taken. On September 30, 1986, the DEA Deputy Administrator issued interim guidelines that addressed each of our concerns. Because of DEA's prompt corrective action, we are not making recommendations at this time but will continue to monitor the situation during our ongoing work. As agreed with your office, this report documents our findings and DEA's resultant action.

During a visit to DEA's Dallas field office, we noted that upon forfeiture to the government, about $14,000 of seized personal property had been converted to government uses which appeared to be inconsistent with DEA's policy. For example, curio cabinets, end and coffee tables, paintings, figurines, and decorative plates were used to enhance the appearance of the Special Agent-In-Charge's office. We discussed this situation with DEA headquarters officials in July 1986 and were informed that most of the property in question should not have been converted to DEA's use because it had no specific operational value as required by DEA policy. We were further informed that the property would be transferred to the General Services Administration for appropriate disposal.

As a result of the situation in Dallas, we reviewed DEA's internal controls over the conversion of forfeited personal property to government use and found that they provided little assurance that such property was not being converted for inappropriate government uses. DEA's policy and procedures allow field offices to convert forfeited personal property to official government use if it has "operational value." However, operational value is not adequately defined; and, until DEA issued its interim guidelines, personal property was being converted by field offices without justifying the need for the property, and monitoring of such conversions was lacking.

BACKGROUND

DEA is the primary federal agency tasked with controlling the abuse of narcotics and dangerous drugs by restricting the supply of drugs; arresting persons engaged in illegal drug trafficking; and seizing property used in, or acquired with the proceeds of, drug trafficking. DEA accomplishes its mission through its 19 division field offices and the El Paso Intelligence Center and through coordination with state, local, and other federal drug enforcement activities. The 19 field offices are managed by Special Agents-In-Charge.

The Comprehensive Crime Control Act of 1984, Public Law 98-473, gave federal law enforcement agencies such as DEA increased authority to seize and obtain forfeiture of the assets used in the commission of crimes or acquired with the proceeds

[1] Tangible property, such as furniture, household items, and electronic equipment. Does not include real estate, cash, or conveyances, such as vehicles, boats, aircraft, etc.

from the those crimes. The act also gave federal law enforcement agencies four options, depending on the crime, for the disposition of property forfeited to the government.

—retaining the property for official government use;
—selling the property and depositing the proceeds in the asset forfeiture fund, which is used to finance management of the seized property program;
—sharing the property with state and local law enforcement agencies that participated in the investigation that led to seizure of the property; or
—transferring the property to the U.S. Marshals Service or the General Services Administration for disposition.

Since passage of the Crime Control Act, seizure of property involved in crime has steadily increased. As of October 1986, DEA was managing more than $370 million in seized and forfeited property, including cash, personal property, real property, and conveyances.

OBJECTIVE, SCOPE, AND METHODOLOGY

Our objective was to evaluate the adequacy of controls governing DEA's conversion of forfeited personal property to official government use. Specifically, we determined whether the Dallas field division office had adhered to DEA policies and procedures in converting forfeited personal property to government use. We did not review all property that had been converted because DEA headquarters officials believed that the Dallas situation illustrated the need for clarification and/or changes of DEA's policy and procedures.

Our work was performed at DEA Headquaters, Washington, D.C.; and the DEA Dallas, Texas, Field Division office. We observed how forfeited property was being used in the Dallas office and interviewed officials and obtained documentation regarding DEA's internal controls over seized and forfeited personal property being converted to government use. In DEA Headquarters, we interviewed the Chief, DEA Asset Forfeiture Unit; Supervisor, Property Management Section; Deputy Assistant Administrator, Office of Inspections; and an attorney in the DEA Office of Chief Counsel. We were referred to the attorney by the Deputy Assistant Administrator, who said that the attorney was the most knowledgeable DEA employee regarding seizure and forfeitures. We made our review from July to October 1986 in accordance with generally accepted government auditing standards.

FORFEITED PERSONAL PROPERTY CONVERTED PRIMARILY TO ENHANCE OFFICE APPEARANCE

Furniture and various household goods seized by the DEA Dallas Office in September 1985 were forfeited to the federal government on April 24, 1986. The Dallas Special Agent-In-Charge converted property valued at $13,223 to government use and placed it in his office on June 12, 1986. The property included two curio cabinets, Norman Rockwell and Emmett Kelly series figurines, decorative plates, a stereo system, a video cassette recorder, paintings, and other items. Also included in the office was a television, valued at $1,200, which we were informed was converted to government use by the prior Special Agent-In-Charge.

The Comprehensive Crime Control Act and the subsequent increase in the volume of seizures heightens the importance of properly managing seized cash and maintaining good internal control. The GAO's audit revealed such controls over seized and forfeited cash were inadequate. Consequently, millions of dollars of seized and forfeited cash are being held in vaults and safe deposit boxes before being deposited into United States Treasury Accounts. These delays prevent the Government from obtaining economic benefits from the cash, while increasing the administrative costs and risks of handling, storing and accounting for cash.

GENERAL FINDINGS OF THE SUBCOMMITTEE

In general, the GAO review found that the Customs Service is experiencing unnecessary delays in depositing cash into the Customs Asset Forfeiture Fund. The length of delays range from two to 1,771 days, for assets totaling between $2 and $4.3 million. Of

these cases, 107 cash seizures had unnecessary delays before deposit, which totaled $32 million.

UNITED STATES CUSTOMS SERVICE

In testimony before the Subcommittee, the GAO estimated that more than $500,000 could have been earned for the Government by the Miami and Los Angeles Customs Services. There were several causes for the delays in depositing seized and forfeited cash. GAO maintained that the information to account for the cash and to adequately monitor a case's status was inadequate. There was no national policy and no oversight of seized cash management. Finally, the Customs Service deposits of non-evidentary cash into interest-bearing commercial bank accounts is slow. The money is not getting into the U.S. Treasury accounts on a timely basis, which would pay higher interest rates and would provide better control.

The following table summarizes the frequency of the reasons for deposit delays.

GAO TESTIMONY FROM MAR. 13, 1987, HEARING

Table 5.—Reasons for deposit delay

Causes	*Number of cases*
Custodian did not deposit cash when notified	33
FPF [1] delayed or took no action after being notified of forfeiture or non-evidentiary decision	22
No record of case	6
Regional counsel delayed notifying FPF of change in case status	2
Combination of above	28
Lack of justification to support evidentiary need	16
No delays	22
Totals	129

[1] Fines, Penalties and Forfeitures Unit.

The Customs Service maintains that they established policies for seized property management. The Subcommittee maintains that seized cash was overlooked in spite of Customs stated policy. In fact the lack of clear policy and line of responsibility for seized cash management had led to a definite breakdown in controls in this area. A description of related control breakdowns found by the GAO is as follows:

EXCERPT FROM GAO TESTIMONY, P. 10, HEARING ON MAR. 13, 1987

1. There is no national policy or organizational unit ultimately responsible for seized cash management.

2. There is no national inventory of seized cash, including information on amount and location of cash deposited in interest bearing bank accounts.

3. The accounting system for seized property is substandard. In its Federal Managers' Financial Integrity Act Report, Customs identified instances of nonconformance with the Comptroller General's Accounting Principles and Standards. The Federal Manager's Financial Integrity Act (P.L. 97-255) requires agency internal control and accounting systems to comply with standards specified by the Comptroller General. Under the act, agency heads must report to the President and Congress by December 31 each year as to whether their systems fully comply with the act.

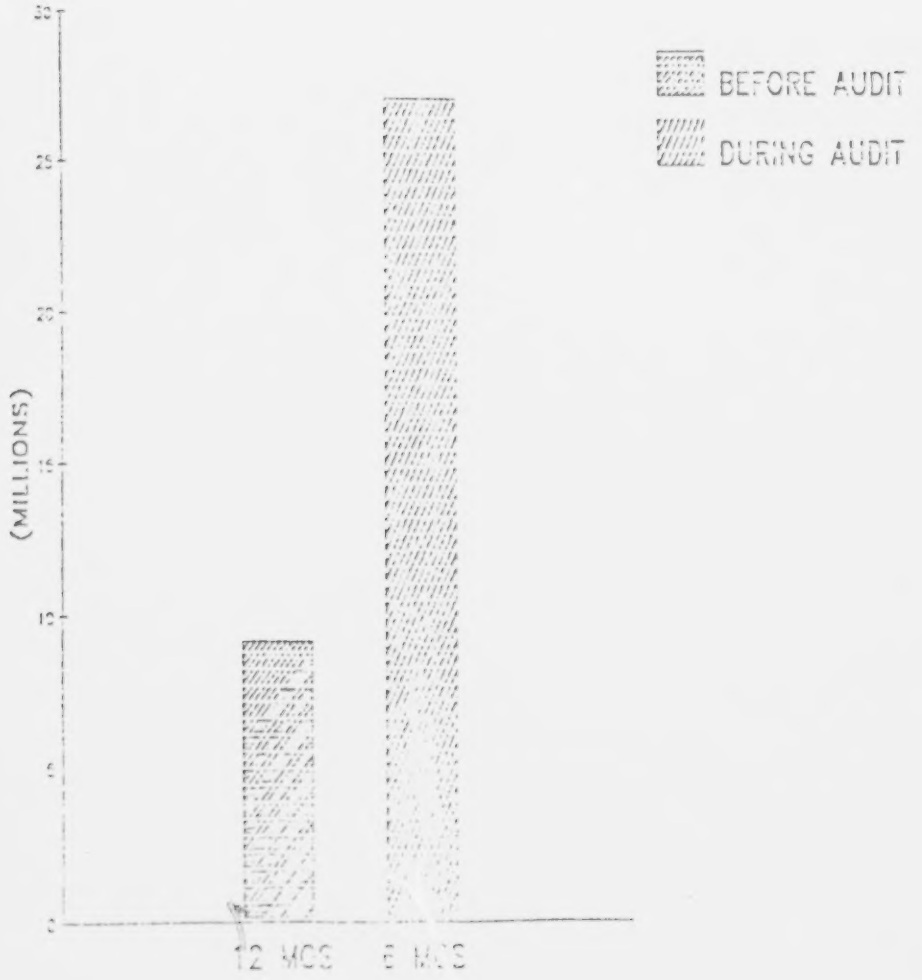
Although Customs identified system weaknesses in accounting for seized property, none were identified for seized cash in its Fiscal Year 1986 Integrity Act report to the Secretary of the Treasury. For example, there is no accounting of seized cash until it has been deposited into the Customs Forfeiture Fund. We subsequently discussed the Customs omission with Treasury officials and, at our suggestion, the Sec-

retary of the Treasury included the seized cash management problems in his Integrity Act report.

4. There were no audits of seized cash nationally and, other than cash counts, there were no local audits of seized cash in Miami and Los Angeles.

Since the GAO started its audit, the Customs Service has been taking limited corrective action. The Los Angeles and Miami districts are now depositing more cash than they had been before the GAO audit. Table 6 is a graph from the GAO report, which illustrates the difference in the time-of-deposit for the Customs Service seized cash inventory.

TABLE 6
CUSTOMS' SEIZED CASH DEPOSITS
AT MIAMI AND LOS ANGELES



Discussion Concerning the Importance of Depositing Seized Cash

In testimony before the Subcommittee, William von Raab, Commissioner of Customs for the United States Customs Service, raised an issue concerning the viability of cash deposits by the Government. The official position of the Customs Service delivered by von Raab is as follows:

EXCERPT FOUND ON P. 8 OF TRANSCRIPT MARCH 13, 1987

Mr. VON RAAB. They do not invest cash in interest-bearing accounts. They place it in the Federal Reserve Board, which does not pay interest on that money, because the Federal Reserve system is a Government agency, although independent.

If you would look at the statement of the letter of the Vice Chairman of the Federal Reserve Board to me, also, the Federal Reserve balance sheet and income statement I have prepared, the top of which it says that the liabilities of the Federal Reserve Board, which include U.S. deposits and Federal Reserve notes are non-interest bearing. The result of this is that cash in the hands of the American public, cash in the hands of the Federal Government would not earn money if placed by the Federal Government in the Federal Reserve system.

That is quite clearly set forth in Mr. Johnson's letter, who is the Vice Chairman of the Federal Reserve Board.

[Letter enclosed.]

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, February 6, 1987.

Hon. WILLIAM VON RAAB,
The Commissioner of Customs, United States Customs Service, Washington, DC.

DEAR MR. VON RAAB: As you indicated in your letter, staff members from the Federal Reserve have met with a Customs/Justice Department task force to discuss holding of seized cash and the subsequent crediting of the Treasury's account. We have also had further discussions with individual staff members from Customs and have sent a copy of an internal memorandum which explains the monetary policy and government revenue and cost aspects of a transaction involving the use of funds credited to the Treasury's account.

From a broad public policy perspective, there is no difference between replacement cash deposited for the benefit of Treasury and a direct credit made to the Treasury's General Account. In each case, if the agency then places the funds in an investment account, the Federal Reserve's monetary policy reaction to this increase in invested Treasury funds will be to sell securities in the open market, reducing the Federal Reserve's portfolio of government securities and the corresponding earnings on those securities. Selling the securities would be necessary in order to maintain a level of reserves consistent with policy objectives. The Federal Reserve's payment to the Treasury will be reduced accordingly, and the net savings to the government resulting from depositing seized funds will approximate zero.

In discussions that my staff has had with the Financial Management Service, the Federal Reserve only has the authority to credit the Treasury's General Account or to place the funds in safekeeping. The authority to invest the funds in an investment account is then subject to Treasury regulations as is the case for any earnings on the investment account. I wish to emphasize once again, however, that the "earnings" on the investment account will be offset by reducing earnings of the Federal Reserve, yielding negligible net savings to the Treasury.

As fiscal agent for the Treasury, the Federal Reserve will of course follow the instructions of the Secretary or his designee as to crediting deposits of currency in the Treasury's General Account. Please let me know if I can be of further assistance to you.

Sincerely yours,

MANUEL H. JOHNSON,
Vice Chairman.

I. FEDERAL RESERVE BALANCE SHEET AND INCOME STATEMENT

THE FEDERAL RESERVE'S BALANCE SHEET IS COMPRISED ESSENTIALLY OF EARNING ASSETS (MAINLY U.S. GOVERNMENT SECURITIES) AND NON-INTEREST-BEARING LIABILITIES (MAINLY CURRENCY, FINANCIAL INSTITUTION DEPOSITS, AND GOVERNMENT DEPOSITS).

Panel 1
STATEMENT OF CONDITION,
FEDERAL RESERVE BANKS, 12/31/86
($ BILLIONS)

SECURITIES	221.5	FEDERAL RESERVE NOTES	195.4
LOANS	1.5	DEPOSITS--FIN INSTS	48.1
GOLD CERTIFS, SDR, COIN	16.6	--U.S. TREASURY	7.5
OTHER ASSETS	25.7	--OTHER	1.2
PREMISES	0.7	OTHER LIABILITIES	10.1
			262.3
		CAPITAL	3.7
	266.0		266.0

ALL OF THE FEDERAL RESERVE'S NET INCOME, AFTER A STATUTORY DIVIDEND AND ADDITION TO SURPLUS, IS PAID TO THE TREASURY. IN 1986, SUCH INCOME AMOUNTED TO $17.8 BILLION.

Panel 2
STATEMENT OF EARNINGS,
FEDERAL RESERVE BANKS, 1986
($ BILLIONS)

INTEREST ON SECURITIES (ABOUT 8.4% AVERAGE YIELD)	16.9
INCOME FROM PROVISION OF FINANCIAL SERVICES	+ 0.6
GROSS INCOME	17.5
EXPENSES	- 1.2
REVALUATION OF SECURITIES DENOM'D IN FOREIGN CURRENCIES	+ 2.0
OTHER	- 0.3
NET INCOME	18.0
DIVIDENDS, ADDITIONS TO SURPLUS	- 0.2
BALANCE TO U.S. TREASURY	17.8

II. BEHAVIOR OF THE FEDERAL RESERVE AND PUBLIC

THE AMOUNT OF CURRENCY IN CIRCULATION IS DETERMINED BY THE PUBLIC.

THE QUANTITY OF BANK RESERVES -- FINANCIAL INSTITUTION DEPOSITS AT FEDERAL RESERVE BANKS PLUS THE PORTION OF FEDERAL RESERVE NOTES OUTSTANDING HELD BY FINANCIAL INSTITUTIONS TO MEET REQUIRED RESERVES -- BEARS A CLOSE RELATIONSHIP TO THE LEVELS OF MONETARY AGGREGATES AS WELL AS TO THE LIQUIDITY OF THE BANKING SYSTEM AND THE AVAILABILITY OF BANK CREDIT.

FOR THIS REASON, THE FEDERAL RESERVE USES BANK RESERVES AS AN OPERATING TARGET OF MONETARY POLICY.

THE FEDERAL RESERVE ACHIEVES THE LEVEL OF BANK RESERVES THAT IS CONSISTENT WITH MONETARY POLICY OBJECTIVES THROUGH PURCHASES AND SALES OF SECURITIES IN THE OPEN MARKET.

-PURCHASES OF SECURITIES INCREASE BANK RESERVES
-SALES OF SECURITIES DECREASE BANK RESERVES

Panel 3
EFFECT OF OPEN MARKET OPERATIONS
ON BANK RESERVES

SECURITIES	221.5	DEPOSITS--FIN INSTS	48.1
PURCHASE	+ 1.0		+ 1.0
	222.5		49.1
	.		.
	.		.
SECURITIES	221.5	DEPOSITS--FIN INSTS	48.1
SALE	- 1.0		- 1.0
	220.5		47.1
	.		.
	.		.

III. CONCLUSIONS FROM THE FOREGOING

SINCE RESERVE BANKS EARN INTEREST ON ASSETS EQUAL TO THEIR FEDERAL RESERVE NOTES OUTSTANDING AND THEIR DEPOSITS LIABILITIES, AND SINCE NET FEDERAL RESERVE EARNINGS ARE PAID TO THE TREASURY, THE TREASURY EARNS AT THE FEDERAL RESERVE'S PORTFOLIO RATE ON ANY SEIZED CURRENCY IT MAY HOLD.

FOLLOWING SEIZURE OF CASH BY GOVERNMENT, THE PUBLIC REESTABLISHES ITS DESIRED HOLDING OF CURRENCY, PERHAPS AT THE PRE-SEIZURE LEVEL.

AT ANY TIME, BANK RESERVES ARE AT A LEVEL CHOSEN BY THE FEDERAL RESERVE AS MOST CONSISTENT WITH ITS POLICY OBJECTIVES. IN PARTICULAR, ANY RESERVE EFFECTS OF THE PUBLIC'S ADJUSTMENT TO CASH SEIZURE ARE OFFSET AT THE TIME OF ADJUSTMENT.

IV. OPTIONS FOR HANDLING SEIZED CASH -- EFFECTS ON TREASURY EARNINGS

NOTE: THE PROPER POINT OF DEPARTURE FOR ANALYSIS OF OPTIONS FOR HANDLING SEIZED CASH IS POST-ADJUSTMENT BY THE PUBLIC AND THE FEDERAL RESERVE TO THE CASH SEIZURE.

1. THE GOVERNMENT COULD DEPOSIT SEIZED CASH AT FEDERAL RESERVE BANKS FOR CREDIT TO THE TREASURY'S ACCOUNT, LETTING THE TREASURY'S ACCOUNT REMAIN PERMANENTLY HIGHER BY THAT AMOUNT.

   - FEDERAL RESERVE NOTE ACCOUNT WOULD BE DECREASED, TREASURY'S ACCOUNT INCREASED, BOTH BY THE SAME AMOUNT.

   - RESULT: FEDERAL RESERVE ASSETS, AND THEREFORE EARNINGS PAID TO THE TREASURY, WOULD BE UNCHANGED.

2. THE GOVERNMENT COULD DEPOSIT SEIZED CASH AT FEDERAL RESERVE BANKS FOR CREDIT TO THE TREASURY'S ACCOUNT, USING THE PROCEEDS OF THE DEPOSIT TO RETIRE DEBT.

   - SINCE THERE WOULD BE LESS TREASURY BORROW FOR ANY GIVEN LEVEL OF GOVERNMENT EXPENDITURE, THE TREASURY WOULD REALIZE A GAIN EQUAL TO ITS BORROWING RATE TIMES THE SEIZED CASH DEPOSITED.

   - AS THE TREASURY'S BALANCE IS DRAWN DOWN, BY FINANCING DEBT RETIREMENT OR BY FINANCING EXPENDITURE PREVIOUSLY PLANNED TO BE FUNDED BY DEBT, THERE WOULD BE A COMMENSURATE INCREASE IN BANK RESERVES. THE FEDERAL RESERVE WOULD OFFSET THE INCREASE BY SELLING SECURITIES IN THE SAME AMOUNT FROM ITS PORTFOLIO SO AS TO MAINTAIN A LEVEL OF RESERVES CONSISTENT WITH MONETARY POLICY OBJECTIVES.

   - RESULT: THE DECLINE IN FEDERAL RESERVE EARNING ASSETS WOULD REDUCE ITS EARNINGS PAID TO THE TREASURY BY AN AMOUNT ABOUT EQUAL TO THE TREASURY'S GAIN NOTED ABOVE.

3. THE GOVERNMENT COULD DEPOSIT SEIZED CASH AT FEDERAL RESERVE BANKS FOR CREDIT TO THE TREASURY'S ACCOUNT, USING THE PROCEEDS OF THE DEPOSIT TO PURCHASE EARNING ASSETS.

   - RESULT: THE EFFECT WOULD BE ESSENTIALLY THE SAME AS IN OPTION 2 -- AN INCREASE IN TREASURY INVESTMENT INCOME OFFSET BY REDUCED FEDERAL RESERVE EARNINGS PAID TO THE TREASURY.

4. THE GOVERNMENT COULD CONTINUE TO HOLD SEIZED CASH.

Senator CHILES. I just wonder. I am just trying to get my own mind clear on this. There was a dispute or a proposition made concerning money that was tied up for long periods of time as evidence, would be wise to take that money and de-monetize it.

In effect we could use the money in an interest bearing account. We would put something in place of the money when it is needed for evidence so the cash can yield a benefit to the Government.

That is the question that went to the Federal Reserve.

Mr. VON RAAB. Exactly. That was the letter I wrote to the Federal Reserve. In analyzing the proposal to de-monetize money, that the Federal Reserve Board advised me that there was no reason to do it because there was no economic benefit that could be drawn from the Federal Government, other than to de-monetize it or to invest it in interest-bearing accounts.

Senator CHILES. I think, Mr. von Raab, that substituting is a totally different proposition. So, there were two separate items being proposed. You had to substitute something in place of the money to show the evidentiary matter. Now we are talking about the available cash that the court no longer uses. The question is: should we put that cash into the checking account of the Federal Government? Or should we invest it in the Federal Government?

Mr. VON RAAB. Exactly. And neither of those actions has any economic benefit to the United States Government. It is quite clear.

Senator CHILES. Quite clear?

Mr. VON RAAB. Yes, sir.

Senator CHILES. Well, we will have to get someone else to address that for us.

Go ahead, sir.

Mr. VON RAAB. The Customs Service is constantly striving to improve its procedures and policies regarding the management of seized currencies. We have consulted the Federal Reserve Board about alternatives to storing seized currency which must be retained for evidentiary purposes. The Federal Reserve Board has concluded that, if seized funds are deposited to the credit of the Treasury or invested, there will be no economic benefit to the Government. That does not mean, however, that depositing funds into the Treasury deposit accounts will not be very important and advantageous to the Government and that it will reduce the problems of insuring the security of the cash.

Further actions have been taken by the Customs Service to ensure that all abandoned currency and monetary instruments are identified and their status recorded in an automated inventory and reporting system which should be implemented in April 1987.

Each case will be recorded in an on-line inventory system at the time of seizure. Monthly reports will be issued which reflect the status of each case. The National Finance Center will analyze reports and follow up with District and SAC offices to ensure that evidentiary cash is reassessed, that non-evidentiary currency is timely deposited into appropriate accounts, and that forfeited currency and monetary instruments are timely deposited to the Customs forfeiture fund following forfeiture and final case disposition.

Wayne Hamilton, the comptroller for the Customs Service, was asked to clarify the process by which Customs distributed funds to the Sheriff and police departments, in order to distinguish the role of the Custom's Forfeiture Fund.

Mr. HAMILTON. Specifically, Mr. Chairman, the fund that it is deposited in prior to the time our putting it into the forfeiture fund is a miscellaneous receipts account within our revenue accounting system. We can disburse to a State or local government from that account.

Senator CHILES. You can disperse from the miscellaneous receipt account. Where is that account?

Mr. HAMILTON. That is a general fund account.

Senator CHILES. A general fund account.

Mr. HAMILTON. General fund of the Treasury.

Senator CHILES. Now, have the monies that we are talking about and the monies the General Accounting Office was looking at, in the cases in Miami and Los Angeles, gone into the general receipt account?

Mr. HAMILTON. No, they had not.

Senator CHILES. They had not. So, none of that money would have been available for payment or disbursement to local officials?

Mr. HAMILTON. Unless it had been forfeited.

Senator CHILES. I do not care whether it has been forfeited or not. You told me that before it could go out, it had to go into the general receipts account.

Mr. HAMILTON. We cannot put it into the general receipts account until it has been forfeited.

Senator CHILES. Yes, sir. All right. The monies that we are looking at, were cases in which the monies had been forfeited.

Mr. HAMILTON. That is correct.

Senator CHILES. All right. But it still could not be used until it went into that account.

Mr. HAMILTON. That is correct.

Senator CHILES. Then you better tell Mr. von Raab that so he can correct the statement here, and he will not have to leave here having made a wrong statement to this Committee.

Mr. VON RAAB. We will look into it, and we will give your Committee a report on that.

Mr. Correira, the GAO group director responsible for this GAO project, presented the GAO rebuttal to the Customs' testimony.

Mr. CORRIERA. Senator, I would like to make a couple of points.

On page seven of our detailed statements we have a schedule which shows the economic benefits foregone that we computed. I would like to call attention to the fact that these economic benefits foregone were computed on $24.2 million of money that had been forfeited. This is forfeited cash that was sitting in these locations and had not been deposited into the Customs forfeiture fund, which is the ultimate destination of the money. Therefore, this money was not needed as evidence.

TABLE 4 FROM GAO TESTIMONY—ECONOMIC BENEFITS FOREGONE DUE TO DELAY [1] IN DEPOSITING SEIZED CASH AFTER FORFEITURE

Location	Number of cases	Amount (millions)	Total benefits foregone [2]
Miami	60	$17.7	$345,043
Los Angeles	21	6.5	173,806
Totals	81	24.2	518,849

[1] After allowing 14 days after forfeiture or penalty assessment.
[2] We selected 7 percent as an approximation of the rate earned on funds invested in the Treasury Tax and Loan account.

When we visited Los Angeles and Miami in July, we found that these cases were sitting around, forfeited cash. When we raised questions, they began to deposit this money.

Secondly, in terms of that there is no advantage to the Government to deposit cash, we categorically disagree with that. That goes against all cash-management principles.

The whole purpose of cash management is to get cash into U.S. Treasury accounts as quickly as we can. The Customs forfeiture fund is a U.S. Treasury account.

The Subcommittee will continue to monitor the situation with seized cash at the U.S. Customs Service and will continue to request periodic information regarding timely deposits. The Subcommittee endorses the recommendations of the General Accounting Office. Those recommendations are as follows:

GAO RECOMMENDATIONS TO THE CUSTOMS SERVICE

1. Ensure that the following ongoing corrective actions are completed:
   a. Establishment of a National Policy on seized cash
   b. Establishment of a seized cash national inventory information system
2. Require periodic audits of seized cash.

3. Establish a Seized Asset Deposit Fund to be used for depositing non-evidentiary cash pending forfeiture instead of depositing it in interest-bearing bank accounts.

4. Insure that identified seized cash and accounting system weaknesses are corrected, including prompt depositing of non-evidentiary cash and periodic reassessments of the evidentiary need for cash being held as evidence.

5. Report the seized cash weaknesses under the Integrity Act until the corrective actions have been substantially completed.

The United States Department of Justice

The testimony at the hearings on March 13, 1987 centered around the special problems found at the Justice Department. Paramount was the tremendous backlog of cases acknowledged by the Drug Enforcement Administration (DEA). The DEA's own estimate placed the backlog at 9,500 cases. The General Accounting Office has estimated that the DEA has experienced the same type of problems as those facing the Customs Service.

GAO Testimony and Findings Regarding DEA

The GAO was denied full access to the Drug Enforcement Administration's files. In their probe, the GAO encountered administrative problems equal to those of the Customs Service program. There was a lack of timely deposits of seized cash inventory, and continual violations of seized cash policies and procedures. However, at the hearing, James Knapp, Deputy Associate Attorney General, testified before the Subcommittee concerning the difficulties of the DEA.

The first initiative, one weakness in our forfeiture management system has been the absense of an integrated department-wide information system to track all Federal forfeiture matters within the Department. Rather, each component of the Department which was responsible for forfeiture has developed its own case-tracking system. We are therefore in the process of putting in place a new computer system, to be known as the AFTRAK system, which will embrace all forfeiture matters without regard to the particular component of the Department responsible for the various cases.

The prototype of the new system is expected to be in place in July, embracing the FBI, Marshals Service, the Criminal Division with other components of the Department, that is, the U.S. Attorneys Offices and DEA, as well as the Postal Inspection Service to be added by the end of the year.

A second contributing factor to delays in placing seized cash in a Treasury account is the backlog in processing of forfeiture cases which has developed due to the tremendous growth experienced in the number of Federal Forfeiture actions. We have a program in place to attack the backlog including a task force operation at DEA to process matters there. Among other things, we are seeking to utilize fully the expanded purposes of the asset forfeiture fund as authorized last year in the Anti-Drug Abuse Act, to mobilize additional resources for processing of forfeiture cases.

Under the 1986 amendments, which for the first time permit program-related expenditures from the fund, we are contracting for data entry services, clerical help, analytical services, computer programming and equipment necessary to cut forfeiture processing time. In short, we are giving the backlog a high priority, and are beginning to see the results of our efforts.

Finally, we are seeking to ensure that cash not needed for evidentiary purposes is removed from safes and vaults and placed in the appropriate Treasury account. In this regard, we agree with the GAO that much of the currency now being held as evidence is simply not in fact needed for that purpose.

We did place in effect certain policies in September of 1985 designed to ensure that seized cash not needed for evidence was expeditiously credited to the Marshals

account. However, while some substantial progress has been made, in September of 1985 approximately $12 million in seized cash was posted in that account. As of January 31st, that figure has already grown to about $73 million. But there is much more to do, however. More cash is being retained for evidence than is necessary.

We have studied the de-monetization alternative for some time. But as you can see, the Federal Reserve is obviously not keen on that. Consequently, we have sort of taken the bull by the horns. Yesterday afternoon, Associate Attorney General Stephen Trott signed a memorandum which is going out today to all United States Attorneys as well as to the head of the Justice Department investigative agencies which basically directs that all cash which is currently subject to criminal or civil forfeiture is to be delivered to the Marshals Service for deposit in the seized asset deposit fund within 60 days after seizure or 10 days after indictment, whichever occurs first.

The Justice Department took an alternate position on the economic benefit of placing seized cash in interest-bearing accounts.

At the departmental level we are moving to address all forfeiture—

Senator CHILES. Well, not if there is a balance on one side and a balance on the other. I do not think you would even do that, according to the Federal Reserve letter

Mr. KNAPP. Well, I do not think they fully considered this aspect of it. But my understanding is that there is a clear economic benefit. If we have $300 million in the seized asset cash, that is $300 million less that has to be borrowed at high interest rates on the open market.

Senator CHILES. So, you think that there is some economic benefit as well as the security benefit?

Mr. KNAPP. Definitely, yes, sir.

Senator CHILES. And you speak for the Justice Department on that?

Mr. KNAPP. I speak for the Justice Department on this, and this is the information which I have been provided, yes, sir.

Senator CHILES. I am glad the Justice Department feels that way.

The tremendous backlog of recording and disposing of assets has prevented the DEA from prompt contributions of cash of the Asset Forfeiture Fund. This led to additional storage costs and deprived participating State and local law enforcement agencies of their share of the asset proceeds. In January of 1987, the DEA established a task force to eliminate a backlog of 9,500 seizure cases.

GAO RECOMMENDATIONS TO THE JUSTICE DEPARTMENT

To ensure the DEA's problems are resolved, the GAO made the following recommendations:

1. Provide the Subcommittee with the results of the Task Force's review in eliminating DEA's 9,500 case backlog.
2. Assure that the identified seized property and accounting system weaknesses, including resolving inspection findings, are corrected.
3. Include the seized property and accounting system weaknesses in DEA's Integrity Act report until they are substantially corrected.

The need to expand and continue the investigation into assets seized by the government is reflected in a letter by Senator Chiles to the General Accounting Office. The letter follows:

UNITED STATES SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, March 30, 1987.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States,
Washington, DC.

DEAR MR. BOWSHER: The Subcommittee on Federal Spending, Budget and Accounting is conducting an investigation of the Justice and Treasury Departments' asset seizures and forfeiture programs. In my March 18, 1987 letter to you, I expressed my appreciation for the assistance GAO has provided to date and noted that GAO's work for the Subcommittee is not finished. GAO is currently reviewing the U.S. Marshals Service's management and disposal of real estate and business properties.

This letter is to request GAO to examine the Department of Justice's and Customs Services' Assets Forfeiture Fund. These funds were established by the Comprehensive Crime Control Act of 1984. The 1986 Anti-Drug Abuse Act authorized expanded uses of these funds. The expenditures for the Fiscal Year 1987 are expected to exceed $114 million. In view of existing internal control/management problems in the seizure/forfeiture programs which have been identified by your office, I have serious concern about the validity and reasonableness of these fund expenditures.

I have asked Mr. Bob Harris, Subcommittee Staff Director, to brief your representatives on the nature of the GAO assistance we require. He can be reached at 224-9000.

Sincerely,

LAWTON CHILES, *Chairman.*

SUBCOMMITTEE SUMMARY AND RECOMMENDATIONS

The Subcommittee recognizes that the Department of Justice and the Customs Service have experienced tremendous growth in its assets forfeiture program. However, the Subcommittee believes that management errors documented by the General Accounting Office (GAO) should be corrected if the assets forfeiture program is to be entirely successful.

Further hearings planned by the Subcommittee will monitor the expenditures of the Assets Forfeiture Fund and examine the Marshalls Service management of seized property. This report does not deal with the disposition of real property. The report endorses the recommendations of the General Accounting Office regarding the disposition of seized cash.

RECOMMENDATIONS FOR THE JUSTICE DEPARTMENT

1. That timely and appropriate transfer of the seized cash into the appropriate account be made as soon as the cash is no longer needed for evidentiary purposes. (Mr. James Knapp has indicated that such will be the case. See Justice Department Memo dated March 13, 1987.)

2. The proper management tools be implemented to eliminate the backlog of the estimated 9,500 cases and to keep the Subcommittee advised as to the progress in this area. The Subcommitee is concerned that a case not be termed "resolved" unless action is actually taken on the case in question. A review of the file and a notation stating that the file has been reviewed does, not in the committee's opinion, constitute "action."

3. The Department had indicated and acknowledged weaknesses in the accounting system that the department uses in their inventory. The Subcommittee recommends that vigorous management

attention be devoted to correcting the weaknesses noted and that such corrections be brought to the attention of the Subcommittee.

4. The Subcommittee has asked the GAO to review the disbursements from the Assets Forfeiture Fund and to report on DEA's contribution to the Fund. The Subcommittee recommends that the Department work closely with the GAO to ensure that a timely report can be accomplished.

5. The Subcommittee recommends that systematic and continued audit be instituted by the Department to ensure that cases can be addressed promptly and that backlogs can be prevented.

Recommendations for the Customs Service

1. Create a national policy on seized cash. The policy should include a standard policy procedure which would insure a systematic flow of cash from seizure to deposit.

2. Create a communications system that allows for detection when funds are not deposited in a timely manner.

3. Correct the accounting weaknesses noted by the General Accounting Office in their report.

The Subcommittee takes cognizance of the fact that the Customs Service cooperated fully with the General Accounting Office during its investigation. The level of cooperation between the General Accounting Office and the officials of the Customs Service made it possible for the General Accounting Office to present a comprehensive report to the Subcommittee.

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ADDITIONAL VIEWS OF SENATOR WARREN B. RUDMAN

UNITED STATES SENATE,
Washington, DC., June 11, 1987.

Hon. LAWTON CHILES,
Chairman, Subcommittee on Federal Spending, Budget and Accounting,
Committee on Government Affairs,
United States Senate,
Washington, DC.

DEAR LAWTON: Thank you for providing me with a copy of the proposed draft report you wish to release from the Subcommittee on Federal Spending, Budget and Accounting on the disposition of seized cash in the Customs Service and the Justice Department.

Lawton, I appreciate the opportunity to review this report. You have put a lot of time and effort into resolving deficiencies and problems that have been encountered with the expansion of assets forfeiture legislation. While the General Accounting Office reports included in the Subcommittee's report do a good job of identifying problems that have occurred over the past 10 years in the whole area of seized assets, I have some concern that GAO does not adequately address the extensive changes that have occurred in the program or the substantial growth in seizures that has taken place since enactment of the Comprehensive Crime Control Act of 1984. As you know, this is an area over which the Commerce, Justice, State, the Judiciary and Related Agencies Appropriations Subcommittee, on which we both serve, also has jurisdiction. I, therefore, would like to take the opportunity of including some additional views outlining changes in the forfeiture program since the release of GAO's initial report in 1981 entitled "Asset Forfeiture—A Seldom Used Tool in Combatting Drug Trafficking". A copy of my additional views is enclosed. Your assistance in having them included in the final report to be released by the Committee would be appreciated.

Sincerely,

WARREN B. RUDMAN,
Ranking Member, Federal Spending,
Budget and Accounting Subcommittee.

The distinguished Chairman of the Federal Spending, Budget, and Accounting Subcommittee of the Senate Governmental Affairs Committee, Senator Lawton Chiles, is to be commended for his efforts to ensure that the Assets Forfeiture programs of the Departments of Justice and Treasury are operated and managed in a fiscally responsible manner and that seized cash is deposited as quickly as possible in Treasury accounts established for that purpose.

In evaluating the current programs of the Justice and Treasury Departments, it is important to review the tremendous changes that have occurred in the assets forfeiture area since the release of the 1981 General Accounting Office report to Senator Joseph Biden entitled "Asset Forfeiture—A Seldom Used Tool in Combatting Drug Trafficking". This report evaluated the efforts of the Justice Department for the period of 1976–1979 utilizing the various forfeiture authorities in existence at the time and concluded that neither the dollar value nor the type of assets forfeited to the Government by criminal organizations were impressive compared to the billions generated annually through drug trafficking. While GAO cited several reasons why the forfeiture statutes were not

being used more extensively at that time, i.e., ambiguity in the statutes themselves, lack of guidance to investigators and prosecutors pursuing forfeiture and limited access to financial information, the primary reason cited was the lack of leadership by the Department of Justice. It should be noted that the Justice Department's current attitude toward forfeiture is an aggressive one. The forfeiture statutes in place today are being actively used to take the profit out of crime and in the process drug trafficking syndicates are suffering major setbacks.

The forfeiture programs existing today were initiated in fiscal year 1985, following the enactment of the 1984 forfeiture amendments included in the Comprehensive Crime Control Act. Fiscal Year 1986 was the first full year of operation under the 1984 law. Additional changes were also made to the forfeiture authorities by the Anti-Drug Abuse Act, signed into law in November of 1986. This Act expanded the authorized use of forfeited assets to permit program related expenditures from the fund, including contracting for data entry services, clerical help, analytical services, computer programming and equipment necessary to reduce forfeiture processing time. Since its inception in 1985, the Department of Justice Forfeiture Program has grown from a relatively small program involving tens of millions of dollars to a large-scale program involving hundreds of millions of dollars. The aggregate value of Drug Enforcement Administration seizures during fiscal year 1986, for the first time in history, exceeded that agency's total appropriated budget. Forfeiture income for that year was approximately $100 million. In addition, the total value of forfeited assets shared with State and local agencies assisting in law enforcement cases from October 1, 1985 to January 31, 1987, was over $36 million and it is estimated that assets shared during fiscal year 1987 alone will approach $40 million.

Moreover, the kinds of assets being forfeited today are significantly different than they were at the time the General Accounting Office issued its 1981 report. At that time, GAO expressed concern that forfeiture statutes were not being used as intended to destroy the economic base of criminal organizations and to combat organized crime's infiltration into a commercial enterprise. The United States Marshals Service which manages the Department of Justice's Seized Assets Program, as of February 28, 1987 had on hand nearly 7,000 properties worth more than $444 million. Recently the Marshals Service has disposed of a number of commercial enterprises which had been seized and forfeited to the United States Government, including: a brass and aluminum foundry in Wisconsin, a flower shop in Cape Cod, Massachusetts, a golf course in Michigan, a chain of western wear stores in Texas, apartments in Georgia, an estate in Virginia, and a recording studio in California. The disposition of these forfeited properties resulted in income to the United States Government. More importantly, however, they represent a concerted effort to deprive criminal enterprises of the resources necessary to continue their illegal activities and provide a yardstick by which one can measure the success of the government's forfeiture program.

Dramatic growth in the new forfeiture program has created difficulties and clearly demonstrates the need for improved coordination

that Chairman Chiles has identified. While improved management in the forfeiture program is critical, it is appropriate to note the steps taken by the Department of Justice to resolve the problems identified by the General Accounting Office. In September 1986, the Department of Justice expanded the Asset Forfeiture Policy Advisory Committee to coordinate forfeiture activites of the Drug Enforcement Administration, Federal Bureau of Investigation, U.S. Marshals Service, Immigration and Naturalization Service, the Criminal Division, and the United States Attorneys. Since September, this reorganized Committee has initiated a number of activities:

Estimates have been developed for each component of the Department and the Postal Inspector Service setting out anticipated reimbursements expended from the Fund for asset management, contingent expenses and program-related costs.

Guidelines have been revised governing the Assets Forfeiture Fund to reflect the 1986 forfeiture amendments to more clearly specify forfeiture procedures, and to set targets for the time allowed to process forfeitures.

A consolidated forfeiture tracking system (AFTRAK) has been developed to provide an integrated computerized data system for all Department of Justice and Postal Inspection Service forfeitures. The prototype of this system is scheduled to become operational in July of 1987, which will include the Criminal Division, the Marshals Service, and the FBI.

A backlog subcommittee has been established to conduct an internal review of all Department of Justice forfeiture operations and a program has been developed for attacking the backlog. In addition, the Drug Enforcement Administration has established a task force to address the backlog problem.

Contracting for data entry services, clerical help, analytical services, computer programming and equipment to cut processing time, as authorized under the 1986 forfeiture amendments has begun.

Finally, a directive has been issued to all U.S. Attorneys that all cash seized which is subject to criminal or civil forfeiture, effective May 1, 1987, is to be delivered to the U.S. Marshals Service for deposit in the Seized Asset Deposit Fund within sixty days of seizure or ten days after indictment, whichever occurs first.

The actions taken in response to deficiencies identified by GAO are important first steps in resolving many of the problems. Since the inception of the forfeiture program we have seen a decline in the average processing time required for administrative forfeitures from 350 days to 240 days. Much needs to be done to reduce this processing time further, and federal agencies are encouraged to continue their efforts in this regard. The timely deposit of seized cash in Treasury Department accounts is of vital importance and agencies must be mindful of the critical need to follow through on the initial procedures developed to ensure their proper implementation. Through the use of expanded forfeiture authority, the Federal Government has made substantial progress toward taking the profit out of crime. Through the use of proper management tools, more can be done to ensure the continued success of this important law enforcement tool.

APPENDIX

SENATOR **Lawton Chiles** OF FLORIDA

United States Senate • Washington, D.C. 20510 • 202/224-3041

STATEMENT OF SENATOR CHILES
CHAIRMAN
SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET
AND ACCOUNTING

TODAY THIS SUBCOMMITTEE WILL CONTINUE HEARINGS TO EXTEND OUR INVESTIGATION INTO THE ACCOUNTING AND MANAGEMENT OF SEIZED CASH FLOWING FROM CRIMINAL ACTIVITIES.

THIS HEARING IS THE RESULT OF AN ON-GOING PROCESS THAT STARTED WHEN I ASKED THE GENERAL ACCOUNTING OFFICE TO CONDUCT AN AUDIT AND INVESTIGATION OF THE STORAGE AND DISPOSAL OF CONFISCATED VESSELS ON THE MIAMI RIVER. HEARINGS WERE HELD ON THAT SITUATION ON OCTOBER 14, 1985. I AM HAPPY TO NOTE THAT WITH THE COOPERATIVE EFFORTS OF THE CUSTOMS SERVICE, THE MIAMI MANAGEMENT COMMITTEE, AND THE IMMIGRATION AND NATURALIZATION SERVICE AS WELL AS LOCAL OFFICIALS, THE RIVER WAS CLEARED OF THE UNWANTED VESSELS.

THE MIAMI RIVER IS A SCENIC WATERWAY AGAIN AND NOT A FLOATING JUNKYARD. HOWEVER, I SUSPECTED THAT THE PROBLEM DID NOT BEGIN AND END WITH THE MIAMI RIVER.I ASKED THE GENERAL ACCOUNTING OFFICE TO CONTINUE ITS PROBE INTO THE DISPOSITION OF SEIZED PROPERTY, ANY AND ALL CONVEYANCES, BUSINESSES, CASH, AND ALL OTHER SEIZED MATERIALS.

WE WILL HEAR FROM THE GENERAL ACCOUNTING OFFICE, THE CUSTOMS SERVICE AND THE DRUG ENFORCEMENT AGENCY. IT IS CLEAR THAT THE SITUATION IS AS BAD WITH SEIZED CASH AS IT WAS WITH THE BOATS ON THE MIAMI RIVER. THE ABSENCE OF PROPER MANAGEMENT OVERSIGHT BY THE PROPER AGENCIES IS STARTLING. THE INTERIM REPORT ISSUED BY THE GENERAL ACCOUNTING OFFICE ON THE IMPROPER USE OF SEIZED PROPERTY IN DEA'S DISTRICT OFFICE IN DALLAS DEMONSTRATES THIS IS A PROBLEM CRYING OUT FOR SOME SORT OF MANAGEMENT SOLUTION.

SOME OF US, HERE IN THE CONGRESS, HAVE FOUGHT TO INCREASE THE ENFORCEMENT EFFORTS OF DEA, CUSTOMS, AND THE JUSTICE DEPARTMENT GENERALLY. I AM FULLY AWARE THAT THE WAR ON DRUGS NEEDS EVERY SOLDIER AND EVERY SOLDIER NEEDS EVERY WEAPON. THE COMPREHENSIVE CRIME CONTROL ACT OF 1984 IS A NEEDED AND DESIRABLE WEAPON. EVERY ASPECT OF THE ACT MUST BE USED EFFECTIVELY, AND THIS INCLUDES THE MANAGEMENT ASPECT.

GOOD MANAGEMENT INCLUDES GOOD INTERNAL CONTROLS AND PROPER OVERSIGHT. THE TESTIMONY WE WILL HEAR TODAY LEADS ME TO BELIEVE THAT PROPER MANAGEMENT OF SEIZED CASH MAY NOT EXIST WITHIN THE VERY AGENCIES TO WHICHCONGRESS HAS DELEGATED THIS INPORTANT RESPONSIBILITY.

WE'RE NOT TALKING ABOUT PETTY CASH. WE'RE TALKING ABOUT HUNDREDS OF MILLIONS OF DOLLARS!

WE'RE NOT JUST TALKING ABOUT MISPLACED FINANCIAL RECORDS, WE'RE TALKING ABOUT ACTUAL CASH BEING UNACCOUNTED FOR.

WE'RE TALKING ABOUT DELAYS IN PROCESSING THAT SOMETIMES TAKE MONTHS, EVEN YEARS.

WE'RE TALKING ABOUT TAXPAYER DOLLARS BEING USED TO PAY LONG-TERM STORAGE COSTS FOR ASSETS WHOSE VALUE CONTINUES TO ERODE EACH DAY THESE ASSETS SIT UNACCOUNTED FOR.

THOSE DELAYS ARE COSTLY.

THEY ARE COSTLY IN TERMS OF BENEFITS TO THE TAXPAYERS! FURTHER, THEY ARE COSTLY IN GETTING FUNDS BACK TO LOCAL LAW ENFORCEMENT AGENCIES UNDER THE ASSET FORFEITURE FUND.

THE ECONOMIC BENEFITS FOREGONE BECAUSE OF THESE DELAYS ARE TREMENDOUS. FOR THE CUSTOMS DEPARTMENT'S EIGHTY-ONE FORFEITURE CASES INVOLVING DEPOSIT DELAYS, $518,849 COULD HAVE BEEN EARNED ON THE MONEY DURING THE TIME THE CASH SAT IN CUSTOMS'VAULTS.

IF DEA HAD THE SAME SITUATION, A TOTAL OF $1 MILLION DOLLARS COULD HAVE BEEN EARNED ON THAT CASH.

I HAD MY STAFF CALL TAMPA AND MIAMI TO FIND OUT WHAT THEIR POLIC DEPARTMENTS COULD DO WITH $1 MILLION DOLLARS. THEIR ANSWERS ARE PROBABLY REFLECTIVE OF DEPARTMENTS AROUND THE COUNTRY.

IF THE TAMPA POLICE DEPARTMENT HAD $1 MILLION DOLLARS, IT COULD:

- FUND ITS ENTIRE DRUG EDUCTATION PROGRAM. THAT WOULD TAKE $50,000.
- HIRE FOUR MORE PEOPLE TO COORDINATE ITS CRIME PREVENTION PROGRAM--PEOPLE THE TAMPA POLICE CAN'T AFFORD NOW.
- PURCHASE ENOUGH BULLET PROOF VESTS FOR ITS ELEVEN SQUADS. CURRENTLY IT ONLY HAS ENOUGH FOR ONE.
- REPLACE, FOR $150,000, ITS ENTIRE STOCK OF WIRETAP EQUIPMENT. UNTIL PRESENTLY, THIS HAS BEEN DONE ON A PIECEMEAL BASIS AT A COST OF $10,000 PER PIECE. ACCORDING TO TAMPA'S POLICE CAPTAIN, THE DEPARTMENT HAS BORROWED THIS EQUIPMENT FROM CUSTOMS AND DEA.

IF THE MIAMI POLICE DEPARTMENT HAD $1 MILLION DOLLARS, IT COULD:

- REPLACE ITS ENTIRE STOCK OF OBSOLETE VEHICLES.
- ADD THIRTY-FIVE POLICE OFFICERS TO ITS FORCES.
- REFURBISH, WITH $150,000, MIAMI'S WHOLE SWAT UNIT.
- PURCHASE SIXTY DESPERATELY NEEDED UNDERCOVER VEHICLES FOR DRUG ENFORCEMENT FOR $100,000.

ALTERNATIVELY,WITH $1 MILLION DOLLARS, THE MIAMI POLICE DEPARTMENT COULD COVER NEARLY HALF THE COST OF OVERTIME FOR ONE YEAR. THAT IS AN ATTRACTIVE OPTION FOR THEM. GIVEN THE NEEDED ADDITIONAL DRUG ENFORCEMENT EFFORTS, THIS YEAR THE DEPARTMENT EXPECTS TO EXCEED THEIR OVERTIME ALLOCATION BY $1.5 MILLION.

I HAVE BEEN ONE OF THE MEMBERS OF CONGRESS WHO HAS INSISISTED ON PROPERLY ARMING DEA, CUSTOMS, AND THE JUSTICE DEPARTMENT IN THE WAR ON DRUGS.

I INTEND TO CONTINUE.

THESE AGENCIES NEED THE RESOURCES TO SUCCESSFULLY FIGHT THE BATTLE. HOWEVER, I ALSO WANT TO MAKE SURE THAT THE SPOILS OF THE BATTLE ARE NOT WASTED.

ELIMINATING WASTE IS TODAY'S SUBJECT MATTER.

Asset Forfeited Fund Expenditures

Phase: Proposal/Scoping (CCD)

Location	Start	S/D	Persons	Comp	Produce	Issue	Coord.
GGD/FIA	4/87	30	2	7/87	-	7401	GGD Law Enforcement FIA Steering Committee
LARO	4/87	150	3	7/87			
		180					

Contact: Sib Correira, 634-4841

Program Background/Problems

The Comprehensive Crime Control Act of 1984 established the Justice and Customs Service's Asset Forfeiture Funds and it expanded federal law enforcement authority pertaining to the seizing of assets and forfeiture to the government. The 1986 Anti-Drug Abuse Act made several significant changes in forfeiture law, including authorizing expanded uses of the Asset Forfeiture Funds and removal of the "cap" on Fund expenditures which limited the amount that could be spent annually. Senator Chiles, Chairman of the Subcommittee on Federal Spending, Budget and Accounting is concerned over the significant increase in Justice's budgeted Fund expenditures--from $43 million in FY 86 to $96 million in FY 87--particularly in view of the internal control/management problems identified in our prior and current reviews of seizure/forfeiture programs. Staff from the Senate Judiciary Committee and Senator D'Amato's office met with us in January 1987 to express similar concerns.

Senator Chiles has a strong interest in Justice's and Customs Service's asset seizure forfeiture programs. Our prior request work for him on Customs Service conveyances and Customs Service's and Drug Enforcement Administration's management of seized cash led to congressional hearings in January 1986, and March 1987, respectively. A third assignment for the Subcommittee is currently addressing the U.S. Marshals Service's management and disposal of real estate and business properties. Chairman Chiles anticipates that completion of the Marshal Service and Asset Forfeiture Fund Expenditure reviews will provide audit coverage of the major segments of the government's asset seizure/forfeiture programs. Chairman Chiles plans to hold hearings in March/April 1988 to follow-up on previously reported program deficiencies as well as any deficiencies identified in our 1987 reviews.

Objectives/Methodology

We will identify and analyze the major categories of Fund expenditures and their relationship to Fund revenues. Our primary focus will be on Justice's Fund but we will analyze Customs Service expenditures and revenues to provide us with some basis for determining the reasonableness of Fund expenditures. Expenditure categories with significant increases or which significantly reduce the Fund's net proceeds will be tested to verify the applicability and validity of costs being charged to the Fund. For example, the proceeds realized from the sale of assets is shared with State and local law enforcement agencies which participated in the investigation or activity leading to the asset seizure. In FY 86, Justice transferred $17.1 million to such agencies and the FY 87 total should be even greater. We have noted several instances when 90 to 98 percent of asset sale proceeds was provided to the state and local agency and we intend to assess the reasonableness of Justice's sharing policies and procedures.

Staff Needs/Locations

GGD will provide the Group Director and Assignment Manager. Los Angeles will provide the EIC and two staff members. Los Angeles was selected because of its participation in the prior asset seizure/forfeiture work and the high volume of seizures in the region.

Critical Dates, If Any

For use in March/April 1988 congressional hearings.

Relationship to Issue Area Plan

This assignment is included in GAO's FIA long-range plan and is part of the GAO-wide effort led by the FIA Steering Committee and provided for under the AFMD issue area plan "Internal Control and Financial Management System Audits." This assignment addresses one of the government-wide initiatives identified by the Steering Committee--evaluating agency actions to correct reported material weaknesses in selected programs system or functions.

United States Senate
COMMITTEE ON
GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON
FEDERAL SPENDING BUDGET AND
ACCOUNTING
WASHINGTON DC 20510-6250

March 18, 1987

The Honorable Charles Bowsher
Comptroller General of the United States
441 G Street, N.W.
Washington, D.C. 20548

Dear Comptroller General Bowsher:

The Governmental Affairs Subcommittee on Federal Spending, Budget and Accounting recently held hearings on the "Federal Accounting of Seized Cash". Mr. Gene Dodaro, Associate Director of General Government Division of the General Accounting Office offered testimony concerning the extensive investigation conducted by the GAO.

The thorough and comprehensive audit by your personnel led to an admission by the Justice Department that reforms were needed and would be implemented. The task force from GAO did a completely professional job. I extend to them my deepest appreciation. Although the job finished, I believe it is appropriate to commend the task force personnel for the job they've done thus far. The task force members are as follows:

Sebastian "Sib" Correira	Washington, D.C.
James Black	Washington, D.C.
Thomas Gibson	Washignton, D.C.
Torvall Nelson	Washington, D.C.
Greg Dybalski	Washington, D.C.
Ron Viereck	Los Angeles Ca.
Robert Leshinski	Los Angeles Ca.
Charles Chappell	Atlanta, Ga.
Mario Artesiano	Atlanta, Ga.
Andrew Marshall, Jr.	Atlanta, Ga.
Ms. Deanna Estes	Washington, D.C.

Thank you for your attention on this matter.

Sincerely,

Lawton Chiles

Senator Lawton Chiles

THE COMMISSIONER OF CUSTOMS

WASHINGTON, D.C.

March 30, 1987

Dear Senator Chiles:

Following the March 13, hearing, we have been examining all the seized currency cases reported by GAO in order to determine any asset-sharing situations with state and local officials.

The Omnibus Crime Control Act of 1984 established the asset sharing program for state and local authorities and the final procedures for application were published on February 25, 1986. The program has been actively underway for approximately one year. Of the 129 cases examined by GAO, only 4 seizures were made after that date; only the following two involved state or local participation.

SEIZURE # 86 2704 05013: $42,940 was seized on 10/22/85. The date of forfeiture was 7/28/86. On 10/7/86, the U.S. Attorney stated that the currency was not needed as evidence. It was deposited on 10/8/86. On 11/17/86, a check in the amount of $42,940, was issued to the Bell, California, Police Department.

SEIZURE # 86 2704 05099: $223,780 was seized on 5/8/86. On 8/28/86, the U.S. Attorney determined that the currency was not needed as evidence. It was deposited on 9/3/86. A default judgment was rendered on 2/9/87. A check is being processed for payment to the Bell, California, Police Department.

All asset sharing requests currently on file with the U.S. Customs Service have been reviewed. There is one match with those cases cited by GAO:

SEIZURE 84 2704 05143: $697,126 was seized on 1/31/84. Although a summary judgment in the government's favor was issued on 12/5/86, an appeal has been filed and forfeiture of the funds is on hold until all litigation is resolved. The Burbank, California, Police Department, has filed an application for asset sharing and will be awarded the total amount when final forfeiture takes place.

I am happy to report that of the $36 million in seized currency evaluated by GAO, minimal amounts and few cases involved state and local asset-sharing situations.

The U.S. Customs Service fully supports sharing assets with state and local governments that provide assistance in investigations. We are assisting departments in the application process in order to share assets as soon as legally possible. The Customs Service recognizes the criticisms found in the GAO report regarding timely deposit of currency into a Treasury account and has taken steps to ensure that control mechanisms for seized currency are in place.

Yours faithfully,

William von Raab

The Honorable
Lawton Chiles
United States Senate
Washington, D.C. 20010

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United States Senate

COMMITTEE ON
GOVERNMENTAL AFFAIRS

SUBCOMMITTEE ON
FEDERAL DISTRICT, BUDGET AND
EFFECTIVENESS

April 27, 1987
WASHINGTON, DC 20510-6250

The Honorable William von Raab
Office of the Commissioner
U.S. Customs Service
Department of the Treasury
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear Mr. von Raab:

The Customs Service Los Angeles District deposits seized cash pending forfeiture into various interest-bearing accounts at local financial institutions. For example, a $1.5 million seizure was deposited in 16 different federally-insured financial institutions because it is local practice not to exceed the $100,000 Federal Deposit Insurance Corporation limit.

We understand that the Los Angeles Federal Credit Union manager arranges the deposits of seized cash into these interest bearing accounts. The Customs Credit Union receives one percent of the amount on deposit at the various institutions as compensation for arranging the deposits. Also, several Customs Service Los Angeles District officials were or are presently members of the Credit Union's Board of Directors.

In some cases, the interest bearing accounts are variable interest rate with a 30 day fixed term-- commonly called money market accounts. For example, during May-December 1986, the interest rate was 6.5 percent for the three accounts shown in the following Table. Credit Union statements for the three accounts for calender year 1986 showed the following information.

Table 1

Seizure Interest	12-31-86 balance	1986 Earned
84-2704-05622	$ 31,893	$1,843
85-2704-06571	889,679	51,422
85-2704-06599	188,260	10,881
TOTALS	$1,109,832	$64,146

Questions

1. Does the Customs Service consider the Los Angeles District's practice of paying the Credit Union for arranging deposits into commercial banks to be legal or appropriate given the apparent conflict-of-interest represented by Customs employees who are members of the Credit Union or who serve on the Credit Union's Board of Directors ?

2. Does the Customs Service consider one percent of the cash on deposit to be reasonable compensation for the Credit Union's arranging of deposits? If so, how was that compensation determined and by whom?

3. What is the total fee, listed by seizure number, earned by the Los Angeles Customs Federal Credit Union for arranging seized cash deposits?

4. How, and to whom, were these fees being disbursed?

5. Are there other Customs Services districts paying Customs Federal Credit Unions for services in depositing seized cash?

I would appreciate your immediate response to these questions. Please address your replies to the Governmental Affairs Subcommittee on Federal Spending, Budget and Accounting.

Thank you for your consideration in this matter.

Sincerely,

Lawton Chiles,
Chairman

LC/aes

JOHN GLENN, OHIO, CHAIRMAN
LAWTON CHILES, FLORIDA
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United States Senate

COMMITTEE ON
GOVERNMENTAL AFFAIRS

SUBCOMMITTEE ON
FEDERAL SPENDING BUDGET AND
ACCOUNTING

WASHINGTON, DC 20510-6250

U.S. COMMITTEE
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ROBERT HARRIS, STAFF DIRECTOR

April 8, 1987

The Honorable Edwin Meese
Attorney General of the United States
Department of Justice
10th & Constitution Avenue, N.W.
Room 5111
Washington, D.C. 20530

Dear Attorney General Meese:

In testimony before the Governmental Affairs Subcommittee on Federal Spending, Budget and Accounting, Mr. James Knipp, Deputy Associate Attorney General testified that the Justice Department is moving expediously to promply transfer seized cash into the appropriate Treasury account. That is a positive reaction to the problem which the General Accounting Office testified on before the committee.

The General Accounting Office also testified on the tremendous backlog facing the Justice Department. In fact, there are probably in excess 9,500 backlogged cases involving DEA and the Marshals Service. As the subcommittee continues its work, I would appreciate the following information for our report and hearing record.

1. What is the number in your present backlogged cases?

2. What are the specific plans that the Department has developed to deal with the backlog problem?

3. How many personnel are assigned to this [illegible]?

4. What is the total dollar value of the backlogged cases?

5. How many cases have the department resolved since the problem was brought to your attention?

If you have any questions concerning this request, please feel free to call Bob Harris, Staff Director, Subcommittee Federal Spending, Budget and Accounting at (202) 224-9000.

Thank you for your consideration in this matter.

Sincerely,

Lawton Chiles
Chairman

LC/aes

THE COMMISSIONER OF CUSTOMS

WASHINGTON, D.C.

May 6, 1987

FIS-4-CM:F:N:R:R WR

Dear Mr. Chairman:

This will acknowledge your inquiry concerning our Los Angeles District depositing seized currency into interest bearing accounts with a Customs Credit Union.

I learned about this depositing arrangement shortly before your recent hearings on seized currency. I shared your concerns about a conflict of interest and directed that the arrangement be terminated as quickly as possible.

Since your hearings, we have developed a procedure for depositing seized currency into a Treasury general fund account within 10 workdays after a determination is made that it is not needed for evidence. That change, which is now being programmed in our automated collection system, should be available for use within the next 2 weeks. At that time, we expect to close out the accounts with the Credit Union and transfer the balances to the general fund account.

Yours faithfully,

Will - Rod

The Honorable
Lawton Chiles, Chairman
Subcommittee on Federal Spending,
Budget and Accounting
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510-6250

GAO

United States
General Accounting Office
Washington, D.C. 20548

General Government Division

April 8, 1987

The Honorable Lawton Chiles
Chairman, Subcommittee on Federal Spending,
Budget, and Accounting
Committee on Governmental Affairs
United States Senate

Dear Mr. Chairman:

We have received your letter dated March 30, 1987, requesting that the General Accounting Office examine the Department of Justice's and Customs Services' Assets Forfeiture Fund.

Mr. Gene L. Dodaro of this Division will contact your office in the near future to discuss this matter.

Sincerely yours,

William J. Anderson
Assistant Comptroller General

Memorandum

Subject	Date
Seized Cash	March 13, 1987

To
All United States Attorneys
and Criminal Division
Section Chiefs
Administrator, DEA
Director, FBI
Commissioner, INS
Director, USMS

From
Stephen S. Trott
Associate Attorney General

The security, budgetary, and accounting problems caused by retention of large amounts of cash is causing great concern within the Department and the Congress. A just released GAO report has estimated that there is $220 million in cash being retained by various federal law enforcement agencies. Consequently, effective May 1st, all currency seized which is subject to criminal forfeiture or to civil forfeiture, is to be delivered to the United States Marshals Service (USMS) for deposit in the USMS Seized Asset Deposit Fund either within sixty days after seizure or ten days after indictment, whichever occurs first.1/ Where appropriate, photographs or videotapes of the seized cash should be taken for later use in court as evidence.

Limited exceptions to this directive, including extensions of applicable time limits, will be granted, on an interim basis, only with the express written permission of the Assistant Attorney General, Criminal Division, and are to be sought through

1/ This policy does not apply to the recovery of buy money advanced from appropriated funds. To the extent practical, negotiable instruments and foreign currency should be converted and deposited.

the Asset Forfeiture Office, Criminal Division.2/ Retention of currency will be permitted when retention of that currency, or a portion thereof, serves a significant independent, tangible, evidentiary purpose due to, for example, the presence of fingerprints, packaging in an incriminating fashion, or the existence of a traceable amount of narcotic residue on the bills. If the amount of a seizure is less than $5000, permission need not be sought from the Criminal Division for an exception, but any exception granted is to be granted at a supervisory level within a United States Attorney's Office using the above criteria.3/

The co-mingling of cash seized by the government under 21 U.S.C. §881(a)(6), will not deprive the court of jurisdiction over the res. Unlike other assets seized by the government (e.g. real property, conveyances), cash is a fungible item. Its character is not changed merely by depositing it with other cash. While it is true that the jurisdiction of the court is derived entirely from its control over the defendant res, court jurisdiction does not depend upon control over specific cash. As stated in United States v. $57,480.05 United States Currency and Other Coins and $10,575.00 United States Currency, 722 F.2d 1459 (9th Circuit 1984), " ... jurisdiction did not depend upon control over specific bits of currency. The bank credit of fungible dollars constituted an appropriate substitute for the original res." This has been a time-honored practice in the area of civil forfeiture law. See, American Bank of Wage Claims v. Registry of the District Court of Guam, 431 F.2d 1215 (9th Circuit 1970).

Please review your existing cases and property storage sites and make all required transfers or requests for exemption by May 1, 1987.

2/ Requests for an exemption will be filed by the United States Attorney's Office or Criminal Division Section responsible for prosecuting, or reviewing for prosecution, a particular case. Investigative agencies holding cash should immediately inventory any cash on hand being retained for evidentiary purposes and consult the appropriate prosecutor's office. While implementation of this policy has been delayed until May 1st in order to give agencies time to complete this inventory, prompt compliance wherever possible would be appreciated.

3/ We will be consulting with the Customs Service regarding this new policy. The criteria and procedure for obtaining exemptions remains the same for cash retained by Customs.

Thank you for understanding the immediate necessity for this directive. It will be reviewed at the next United States Attorneys Advisory Committee meeting to determine whether it requires modification. Additional actions or controls are possible after we have had an opportunity to review the GAO report.

For further information or questions regarding implementation of this policy, contact Brad Cates, Director, Asset Forfeiture Office, Criminal Division, at (FTS) 272-6420.

UNITED STATES SENATE
MEMORANDUM

TO: Majority Staff Directors
FROM: Subcommittee on Federal Spending Practices
SUBJECT: March 13, 1987 hearing

Identifying, seizing, and forfeiting assets of drug traffickers and organized crime figures has become a key part of the Federal Government's efforts to curb and economically punish this type of criminality. Forfeiture law allows the government to take property -- including cash -- that has been illegally used or acquired without compensation of the owner. In cases of $100,000 or less, forfeiture can be handled administratively by the seizing agencies' legal units. For amounts exceeding $100,000, the cases are handled judicially.

Until passage of the Comprehensive Crime Control Act of 1984, forfeiture law has played a minor role in the Federal Government's war on crime. The Act both widened the government's seizure authority and set up Asset Forfeiture Funds to finance the management and disposal of seized assets. The result has been a significant increase in the volume of assets, including cash, being seized.

The GAO review which this hearing addresses is limited to Customs Service and DEA. The review was conducted between July and September of 1986. With an estimated $223 million of seized cash on-hand, Customs Service and DEA have, by far, most of the cash seized by the Departments of Treasury and Justice, respectively. GAO's testimony focuses on Customs and DEA's cash seizure programs.

In general, the GAO review found that Customs Service is experiencing unnecessary delays in depositing cash into the Customs Asset Forfeiture Fund. The length of the delays range from two to 1,771 days, for assets totalling between $2 and $4.3 million. The review found that both the Miami and Los Angeles Customs Service branches had no inventory information on the amount of seized cash on-hand, no record of pending cases, and a history of delayed or failed notification of changes in case status. Neither branch had a policy or clear line of responsibility for seized cash management. The cause of delays included this lack of committment both at the district and headquarter offices.

With respect to DEA, the GAO made similar findings. Aside from preventing full access to its files, DEA lacks an accurate seized cash inventory information, and has continually violated seized cash policies and procedures. A huge backlog of recording and disposing of assets has prevented DEA from prompt contribution of cash to the Asset Forfeiture Fund. In January of 1987, DEA had a backlog of 9,500 seizure case files.

GAO's testimony will outline GAO's corrective recommendations for Customs Service and DEA.

[From the Washington Post, Mar. 14, 1987]

Law Officials Vow Better Handling of Seized Cash

(By Mary Thornton)

Federal law enforcement officials promised a Senate Governmental Affairs subcommittee yesterday that they will improve management procedures that have allowed hundreds of millions of dollars in cash seized from criminals to languish in office safes, evidence rooms and safety deposit boxes around the country.

In response to criticism from the General Accounting Office, Deputy Associate Attorney General James Knapp said the Justice Department yesterday notified U.S. attorneysand other department subsidiaries across the country that seized funds must be turned over to the U.S. Marshals Service for deposit within 60 days of a seizure or 10 days of an indictment, whichever comes first.

The only exceptions, he said, would be cash needed as evidence, generally because it contains fingerprints or narcotics residue. He said those exceptions would require the approval of Assistant Attorney General William Weld, who oversees the Criminal Division.

In testimony to the committee, the GAO charged that an investigation of the handling of forfeited cash by the Drug Enforcement Administration and the Customs Service had found inadequate accounting and security practices, as well as long delays in turning cash over to the Treasury Department.

At the time the GAO began its study last October, there was $96 million in cash at Customs and $124 million at DEA. The money makes up a portion of the assets forfeited to the government by major criminals, most of them drug traffickers.

But Customs Commissioner William von Raab disputed the GAO contention that the government could be earning money by investing the funds. He provided an analysis from the Federal Reserve System showing that there is no financial advantage since any "earnings" on the cash come out of the Federal Reserve.

Under a 1984 law, money seized in federal drug raids is supposed to be transferred into a special federal assets-forfeiture account, then dispersed to law agencies that participate in the narcotic busts.

Sen. Lawton Chiles (D-Fla), who requested the GAO report, complained yesterday that there has been a major lag in sharing the funds with local crime fighters. The GAO investigation, conducted between April 1986 and last month found that instead of being transferred to that fund, the money often remained in field offices for years. The GAO found no evidence that seized cash has been stolen from field offices but said inadequate accounting "leave them open to the possibility of theft."

[From the Lakeland, Florida Ledger, Mar. 25, 1987]

Socking Drug Money Away

(Editorial)

What does the federal government do with the wads of cash it seizes from illegal drug activities? The federal government does not stuff those bills in a sock and stick it under the mattress.

But it might as well.

Recently, U.S. Sen. Lawton Chiles, D-Fla., started questioning officials from the Drug Enforcement Administration and the Customs Service about the cash. The General Accounting Office had discovered that large sums of money were in the storage vaults of those agencies—instead of in interest bearing accounts.

"We're not talking about petty cash," said Chiles. "For the Customs Department's 81 forfeiture cases involving deposit delays, $518,849 could have been earned on the money during the time the cash sat in Customs' vaults . . ."

Chiles, chairman of the subcommittee on federal spending, budgeting and accounting, made his remarks at a subcommittee hearing this month. But amazingly, a U.S. Customs official told Chiles that the government would gain nothing by investing the money. Commissioner of Customs William von Raab told Chiles that it really didn't make any difference it the money was invested or not. He produced a letter from Manuel H. Johnson, vice chairman of the Federal Reserve Board, to back him up.

In a very round/about way, Johnson said that if the Customs Department deposited the cash in an interest-bearing account, the Federal Reserve's monetary policy would cause the board to sell securities in the open market. That would reduce the

amount of government securities, and, therefore, the earnings on those securities. "The net savings to the government resulting from depositing seized funds will approximate zero," said Johnson.

An amazed Chiles responded: "It seems to me that the government might as well keep its money in checking accounts." Indeed it does. If the policy is such that depositing seized money in interest-bearing accounts triggers the sale of other income-producing securities by the government, then the policy needs to be changed. But at least two agencies question whether the policy has been interpreted correctly.

The General Accounting Office does not agree with the Federal Reserve's statement. The Justice Department's official position is that the cash should be placed in a Treasury account, where it might bring in interest to help either reduce the national debt or generate money for law enforcement.

It would seem that President Reagan needs to issue a major fiscal policy change. (He should not take that to mean that the money should be stuffed in a blue sock instead of a brown one.)

[From the Washington Post, Apr. 7, 1987]

Treasury Sets Rules To Trace Drug Money

(By Craig Webb)

The Treasury Department issued new rules yesterday to help track drug money as it passes through banks, but reserved judgment on its most controversial proposal—required reporting of any transaction over $3,000.

Most of the amendments to the Bank Secrecy Act will take effect in 30 days and the rest will start in 90 days, the department said. They affect not only banks but savings and loans and other financial institutions.

A senior department official said the changes enlist the help of state-of-the-art bank computers in the fight against drug dealers.

"We want to attack the money end of the narcotics business," said the official.

One of the most significant amendments will require banks to report to the government whenever it learns of any transaction in currency involving more than $10,000.

A version of that rule is in effect now, but drug dealers have been getting around it by having teams of money launderers put through transactions just below the triggering amount.

The amendment attacks that scheme by counting aggregate transactions.

"As long as 'a transaction in currency of more than $10,000' has occurred, it does not matter if it was done by one person with one account, several persons with the same account, or one person with several accounts," the Treasury Department said in explanatory notes accompanying its final rules.

The Treasury offical said banks would be required to report such transactions only if they had equipment that enabled them to do so. The rules do not force banks to buy computers, but "If you have computer software that can tell you when you get over $10,000 aggregate, you've got to use it," he said.

The new rules amend the Bank Secrecy Act made public on Aug. 25, 1986. That act also called for financial institutions to report and record cash purchases of financial instruments—mainly checks and money orders—exceeding $3,000. But the department said yesterday it has decided to reserve judgement on that part of the act.

"After review of the comments [from financial institutions], it was apparent that there were several operational problems with the proposal," the department said in a statement.

The senior official said his agency has not decided whether to drop the idea, modify it or put into effect as originally written.

○